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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,064	09/23/2003	Been-Yih Jin	42P15997	2743

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EXAMINER

LEE, HSIEN MING

ART UNIT PAPER NUMBER

2823

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/669,064	JIN ET AL.	
	Examiner	Art Unit	
	Hsien-ming Lee	2823	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 25-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-24 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

HSIEN-MING LEE  
PRIMARY EXAMINER

2/4/5

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-24, drawn to a method, classified in class 438, subclass 268+.
- II. Claims 25-27, drawn to a product, classified in class 257, subclass 213+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, that the process as claimed can be used to make other and materially different product, such as a transistor that does not require a device base comprising a crystalline structure derived from a device substrate.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. William T. Babbitt (Reg. No. 39,591) on 2/8/2005 a provisional election was made without traverse to prosecute the invention of I, claims 1-24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 25-27 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

*Claim Objections*

3. Claim 1 is objected to because of the following informalities: the term “the via dielectric layer” lacks antecedent basis. Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nakagawa (US 6,391,721).

Nakagawa teaches the claimed method comprising:

- forming a via layer 25 (i.e. a p-type epitaxial layer) on a semiconductor device substrate 21/24;
- forming a trench layer 28 (i.e. a diffusion layer) on the via layer 25 (Fig.4D);
- forming a trench 30 through the trench layer 28 to expose the via layer 25 (Fig.4E);
- forming a via 32 in the via layer 25 in the trench 30 to expose the substrate 21/24 (Fig.4F); and
- forming a semiconductor material 37 (i.e. a polycrystalline silicon) in the via 30 and in the trench 32 (Fig.4H).

*Allowable Subject Matter*

6. Claims 2-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 15-24 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter:

The closest prior art of record, Nakagawa to US 6,391,721, teaches a related art, as stated previously. In contrast, Nakagawa at least neither teaches nor suggests that the *via layer* comprises a primary *dielectric* layer and a secondary *dielectric* layer; the *trench layer* comprises primary *dielectric* layer and a secondary *dielectric* layer; and the substrate comprises a *first semiconductor* material and a *second semiconductor* material on a portion of the first semiconductor material, the second semiconductor material has a different lattice parameter than the first semiconductor material.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hsien-ming Lee whose telephone number is 571-272-1863. The examiner can normally be reached on Tuesday-Thursday (8:00 ~ 6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 571-272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2823

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Feb. 9, 2005

Hsien-ming Lee  
Primary Examiner  
Art Unit 2823

HSIEN-MING LEE  
PRIMARY EXAMINER

*He*  
*2/9/05*